

## **910 KAR 2:050. Compensation for guardianship program services.**

RELATES TO: KRS 210.290(5), 387.510(15), 387.760

STATUTORY AUTHORITY: KRS 194A.050(1), 387.760(2)

NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to KRS 387.760(2), the Cabinet for Health and Family Services is entitled to receive reasonable compensation for services rendered and for reasonable and necessary expenses incurred in the exercise of its assigned guardianship or conservatorship duties and powers. This administrative regulation establishes procedures used by the cabinet to assess a monthly compensation fee for guardianship program services.

Section 1. Definitions. (1) "Cost of living" means charges or costs for a ward such as:

- (a) Clothing;
- (b) Food;
- (c) Maintenance;
- (d) Medical care;
- (e) Personal needs;
- (f) Shelter; and
- (g) Other necessities of life.

(2) "Court" means a court of competent jurisdiction.

(3) "Fiduciary Services Branch" means a central office branch under the Division of Guardianship.

(4) "Financial resources" means a ward's income and assets.

(5) "Interested party" means an individual or agency interested in assuming duties and responsibilities on behalf of a ward.

(6) "Personal needs" means an individual's need to purchase varied goods such as:

- (a) Clothing;
- (b) Personal care items; or
- (c) Social support items such as:
  - 1. Telephone;
  - 2. Stationery;
  - 3. Books;
  - 4. Snacks; or
  - 5. Occasional outings.

(7) "Provider" means a facility or entity providing services for a ward such as:

- (a) Self;
  - (b) Caretaker;
  - (c) Family;
  - (d) Group home placement;
  - (e) Hospital;
  - (f) Psychiatric hospital;
  - (g) Personal care home; or
  - (h) Supports for Community Living facility.
- (8) "Ward" is defined by KRS 387.510(15).

Section 2. Compensation for Services. (1) Except for a ward residing in a personal care home or family care home, the cabinet shall assess a monthly compensation fee of six (6) percent, as allowed by KRS 387.760(2), not to exceed \$200 per month from a ward's excess financial resources:

- (a) In excess of the ward's monthly cost of living expenses;
- (b) That shall not:
  - 1. Reduce a ward's account balance, held by the Fiduciary Services Branch, below \$500; and
  - 2. Deprive a ward of funds required for the ward's cost of living expenses including personal needs and provider expenses; and
- (c) If a prepaid burial policy of \$1,000 has been established.
- (2) If the monthly fee of six (6) percent has not been previously assessed, the cabinet may assess a lump sum compensation for services from a ward's excess financial resources not to exceed \$15,000 if:
  - (a) Assessing compensation for services shall not:
    - 1. Deprive a ward of funds required for the ward's monthly cost of living expenses including personal needs and provider expenses; and
    - 2. Reduce a ward's account balance, held by the Fiduciary Services Branch, below \$500; and
  - (b) A prepaid burial policy of \$1,000 has been established.
- (3) The cabinet shall not assess a fee from an over payment in a ward's account occurring under the following programs:
  - (a) Social Security Administration;
  - (b) Supplemental Security Income; or
  - (c) State Supplementation.
- (4) If a ward expires or the cabinet resigned due to a court order, the cabinet shall review a ward's financial resources to determine if:
  - (a) Prior compensation for services has been assessed;
  - (b) The ward's expenses have been paid up to the ward expiring or resignation by court order; and
  - (c) Any compensation for services of six (6) percent not to exceed \$15,000 may be assessed before closing the ward's account if no prior compensation has been assessed.
- (5) Fees assessed shall be placed in a trust and agency account pursuant to KRS 210.290(5).
- (6)(a) The Fiduciary Services Branch shall submit a final accounting to the court pursuant to KRS 387.710(3).
- (b) The cabinet shall consider the court's approval of compensation as the final compensation for services.

Section 3: Dispute of Compensation of Services. If a dispute over compensation for services occurs, the matter may, by request of an interested party, be referred to the court for resolution. (35 Ky.R. 1988; eff. 5-1-2009.)